

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

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FIFTY-SEVENTH LEGISLATURE

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**TWENTY-SECOND LEGISLATIVE DAY  
MONDAY, JANUARY 27, 2003**

Senate Chamber

President Risch called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Williams, absent and formally excused on committee business; Senator Richardson, absent and formally excused by the Chair; and Senators Calabretta, Cameron, Lodge, Noh, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Teresa Duran, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

Senators Calabretta, Lodge, Noh, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 24, 2003, was read and approved as corrected.

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

January 27, 2003

The JUDICIARY AND RULES Committee reports that **S 1027** has been correctly printed.

DARRINGTON, Chairman

**S 1027** was referred to the Commerce and Human Resources Committee.

On request by Senator Davis, granted by unanimous consent,

the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

January 24, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that E.E. "Bud" Brinegar of Meridian, Idaho, was appointed as a member of the Idaho Commission on Pardons and Parole to serve a term commencing January 1, 2003, and expiring January 1, 2006.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

January 24, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Robin Sandy of Boise, Idaho, was appointed as a member of the Idaho Commission on Pardons and Parole to serve a term commencing January 1, 2003, and expiring January 1, 2006.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

January 24, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Quane Kenyon of Boise, Idaho, was appointed as a member of the Idaho State Board of Health and Welfare to serve a term commencing January 7, 2003, and expiring January 7, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Health and Welfare Committee.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

#### **Motions and Resolutions**

Senator Cameron was recorded present at this order of business.

The President announced the Resources and Environment Committee report to confirm the Gubernatorial appointment of John Watts to the Idaho Fish and Game Commission was before the Senate for final consideration.

Moved by Senator Little, seconded by Senator Stennett, that the report of the Resources and Environment Committee be adopted. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Marley, Calabretta, and Malepeai.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, McKenzie, McWilliams, Noble, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk.  
Total - 31.

NAYS--Calabretta, Marley. Total - 2.

Absent and excused--Richardson, Williams. Total - 2.

Total - 35.

The President declared the motion had prevailed and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the State Affairs Committee report relative to the Gubernatorial appointment of James C. Hammond was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Stegner, seconded by Senator Stennett, the Gubernatorial appointment of James C. Hammond as a member of the Idaho State Building Authority was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Judiciary and Rules Committee report relative to the Gubernatorial appointment of Molly J. Huskey was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Davis, seconded by Senator Marley, the Gubernatorial appointment of Molly J. Huskey as State Appellate Public Defender was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Agricultural Affairs Committee report relative to the Gubernatorial appointment of J. Morgan Evans was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Burtenshaw, seconded by Senator Kennedy, the Gubernatorial appointment of J. Morgan Evans as a member of the Idaho Soil Conservation Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Agricultural Affairs Committee report relative to the Gubernatorial appointment of Gary Grindstaff was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Gannon, seconded by Senator Kennedy, the Gubernatorial appointment of Gary Grindstaff as a member of the Idaho Soil Conservation Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the

action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**S 1028**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO COURT FEES; AMENDING SECTION 18-918, IDAHO CODE, TO CORRECT A CODE REFERENCE; AMENDING SECTION 19-5116, IDAHO CODE, TO PROVIDE CODE REFERENCES; AND AMENDING SECTION 31-3201A, IDAHO CODE, TO PROVIDE FOR THE DEPOSIT OF CERTAIN COURT FEES TO THE STATE GENERAL FUND AND TO THE PEACE OFFICERS STANDARDS AND TRAINING FUND.

**S 1029**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO LIMITATION ON LIABILITY OF VOLUNTEERS, OFFICERS AND DIRECTORS OF NONPROFIT CORPORATIONS AND ORGANIZATIONS; AMENDING SECTION 6-1605, IDAHO CODE, TO PROVIDE A CORRECT STATUTORY CITATION TO THE IDAHO NONPROFIT CORPORATION ACT.

**S 1030**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO SUMMARY ADMINISTRATION OF ESTATES IN WHICH A SURVIVING SPOUSE IS THE SOLE BENEFICIARY; AMENDING SECTION 15-3-1205, IDAHO CODE, TO PROVIDE THAT THE PETITIONER, OR THE SURVIVING SPOUSE, OR BOTH, NEED NOT APPEAR IN PERSON AT SUCH HEARING, NOR MUST AN ATTORNEY FOR THE PETITIONER SPOUSE APPEAR IN PERSON AT SUCH HEARING AND TO PROVIDE THAT UPON PROPER MOTION MADE BY THE PETITIONER, THE PETITIONER OR THE ATTORNEY FOR THE PETITIONER, OR BOTH, MAY APPEAR TELEPHONICALLY, OR ALTERNATIVELY MAY SUBMIT ONE OR MORE AFFIDAVITS IN ADVANCE OF THE HEARING CERTIFYING THAT NOTICE OF HEARING WAS GIVEN AS REQUIRED BY LAW AND THAT NO OBJECTION TO THE ENTERING OF THE DECREE HAS BEEN RECEIVED BY THE PETITIONER OR THE ATTORNEY FOR THE PETITIONER.

**S 1031**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO DECEDENT'S ESTATES; REPEALING SECTION 15-6-107, IDAHO CODE, RELATING TO RIGHTS OF CREDITORS IN DECEDENT'S ESTATE PROCEEDINGS; AMENDING PART 1, CHAPTER 6, TITLE 15, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 15-6-107, IDAHO CODE, TO PROVIDE THE LIABILITY OF NONPROBATE TRANSFEREES FOR CREDITOR CLAIMS AND STATUTORY ALLOWANCES, TO DEFINE "NONPROBATE TRANSFER," TO PROVIDE THE LIMITS OF LIABILITY OF THE

NONPROBATE TRANSFEREE, TO PROVIDE THE ORDER OF LIABILITY OF SUCH TRANSFEREES, TO ALLOW APPORTIONMENT OF LIABILITY IN VARIOUS INSTRUMENTS, TO PROVIDE TIME LIMITS WITHIN WHICH AN ACTION MUST BE BROUGHT AND CONDITIONS PRECEDENT FOR SUCH AN ACTION, TO PROVIDE FOR RELEASE OF LIABILITY FOR CERTAIN THIRD PARTY HOLDERS OF INTERESTS AND TO PROVIDE FOR PROPORTIONATE LIABILITY OF TRANSFEREES IN CERTAIN SITUATIONS.

**S 1032**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO THE DEATH OR DISQUALIFICATION OF A SOLE SHAREHOLDER; AMENDING SECTION 30-1309A, IDAHO CODE, TO PROVIDE A PROPER STATUTORY CITATION TO SECTIONS OF THE IDAHO NONPROFIT CORPORATION ACT.

**S 1033**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO EXEMPT PROPERTY IN A DECEDENT'S ESTATE; AMENDING SECTION 15-2-403, IDAHO CODE, TO PROVIDE THAT IN A DECEDENT'S ESTATE WHEN THERE IS NO SURVIVING SPOUSE, THE DECEDENT'S CHILDREN ARE ENTITLED JOINTLY TO THE SAME VALUE OF EXEMPT PROPERTY UNLESS THE DECEDENT'S WILL PROVIDES OTHERWISE.

**S 1034**

**BY JUDICIARY AND RULES COMMITTEE**  
AN ACT

RELATING TO DELEGATION OF POWERS BY A PARENT OR GUARDIAN; AMENDING SECTION 15-5-104, IDAHO CODE, TO PROVIDE THAT WHEN A PARENT OR GUARDIAN OF A MINOR OR WARD DELEGATES TO ANOTHER PERSON POWERS REGARDING THE CARE, CUSTODY OR PROPERTY OF THE MINOR OR WARD, THE DELEGATION MAY INCLUDE POWERS FOR MEDICAL CARE AND EDUCATIONAL CARE OF THE MINOR OR WARD AND THAT IF THE DELEGATION RELATES TO A MINOR AND IS TO A GRANDPARENT OR SIBLING OF THE MINOR, OR SIBLING OF EITHER PARENT OF THE MINOR, THAT THE DELEGATION STAYS IN EFFECT UNTIL THE TIME PERIOD OR DATE OR CONDITION FOR AUTOMATIC EXPIRATION OF THE POWER, TO PROVIDE THAT IF THE POWER DOES NOT CONTAIN ANY TIME PERIOD OR DATE OR CONDITION FOR AUTOMATIC EXPIRATION, IT IS IN EFFECT FOR THREE YEARS, TO PROVIDE THAT THE POWER MAY BE REVOKED IN WRITING DELIVERED TO THE GRANDPARENT OR SIBLING, TO PROVIDE THAT THE POWER DOES NOT NEED TO BE NOTARIZED OR RECORDED TO BE VALID, BUT THAT IF THE POWER IS RECORDED, THE REVOCATION OF THE POWER MUST ALSO BE RECORDED TO BE EFFECTIVE AND TO PROVIDE TECHNICAL CORRECTIONS.

**S 1028, S 1029, S 1030, S 1031, S 1032, S 1033, and S 1034** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

**S 1024** and **S 1025**, by Finance Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

**H 1** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 32.

NAYS--None.

Absent and excused--Calabretta, Richardson, Williams. Total - 3.

Total - 35.

Whereupon the President declared **H 1** passed, title was approved, and the bill ordered returned to the House.

**S 1014** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Marley arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--None.

Absent and excused--Richardson, Williams. Total - 2.

Total - 35.

Whereupon the President declared **S 1014** passed, title was approved, and the bill ordered transmitted to the House.

**H 70** was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Goedde and Cameron arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--None.

Absent and excused--Richardson, Williams. Total - 2.

Total - 35.

Whereupon the President declared **H 70** passed, title was approved, and the bill ordered returned to the House.

**S 1004** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Schroeder, Sorensen, Stegner, Sweet, Werk. Total - 32.

NAYS--Stennett. Total - 1.

Absent and excused--Richardson, Williams. Total - 2.

Total - 35.

Whereupon the President declared **S 1004** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

### Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11 a.m., Tuesday, January 28, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary